



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/188,863	11/09/1998	FORREST NABORS	4606P001	4817

7590 11/03/2006  
ATTEN: GREGORY D. CALDWELL  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP  
12400 WILSHIRE BOULEVARD  
7TH FLOOR  
LOS ANGELES, CA 90025

EXAMINER LE, KHANH H	
ART UNIT 3622	PAPER NUMBER

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/188,863

Applicant(s)

NABORS ET AL.

Examiner

Khanh H. Le

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 72-77 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 72-77 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This Office Action is responsive to the Amendment and Response filed August 7, 2006. Claims 72-76 are pending.

#### *Claim Rejections - 35 USC § 112*

2. Previous rejection of claim 73 under 35 U.S.C. 112, second paragraph, is withdrawn, following its amendment.

#### *Claim Rejections - 35 USC § 103*

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. **Claims 72-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sammon et al, US 6012051 A in view of Luke, US 6131087, hereinafter Luke and further in view of Axaopoulos et al., US 6286002 B1, herein Axaopoulos and Stiegler US 5774121, herein Stiegler.**

As to claims 72 and 75, Sammon discloses :

A wide area system which processes information to identify product choices within a product domain for a user, presents structured data concerning attributes of products in the product domain to the user in a readily understandable and efficient manner, allowing the user to make the best choice according to his or her own personal profile. A user interface presents a sequence of input prompts to the user to gather preference and requirement data for a plurality of attributes of products in the product domain. A decision engine is coupled to the user interface and filters the product domain to present a set of

Art Unit: 3622

products according to the gathered preference and requirement data as product choices to the user. The preference data comprises a variable associated with particular attributes specified by the user to have a degree of relevance to a product choice in the product domain but not an absolute requirement. The requirement data comprises a variable associated with a particular attribute specified by the user to be required or not required for a product choice in the product domain. (see at least abstract, col. 3-4 lines 17, Figs. 9-13 and associated text).

Sammon discloses that for each product attribute, the customer indicates a discrete level of **willingness to negotiate a modification** of the particular attribute by indicating from “must have” (i.e. low level of willingness to negotiate) to “don’t care” (i.e. high level of willingness to negotiate) (Figs. 9-13 and associated text). Implicitly those levels of willingness to negotiate are ranked from among multiple hierarchical tiers of ranks from lowest level to negotiate to highest level to negotiate. (negotiations are implied as the Sammon system is used to purchase big-ticket items, such as cars (see at least col. 1 lines 35-47, col. 5 lines 14-22). Sammon discloses product databases used to determine available configurations (col. 5 lines 14-22; Figure 1, items 25, 26 and associated text). SAMMON also discloses determining purchase qualifications of the customer (see at least Figs. 6 and associated text).

Sammon also discloses **matching then showing products that match the best** (i.e. the ones that have a high percentage of attributes which are indicated as having higher priority by the customer) and ranking them for presentation (see at least Figs. 15 and associated text; col 4 lines 5-7; and col. 4 lines 11-12). It is thus interpreted that SAMMON discloses proposing a “product attribute modification” as claimed when it discloses showing a matching product with an attribute that does not quite match .

Further, by ranking the best matched products, Sammon discloses that the “product attribute modification was made based on the attribute rankings” and proposed to the buyer.

Art Unit: 3622

Thus SAMMON discloses all limitations of claim 72 except as discussed below.

Sammon does not specifically disclose an intermediary subsystem but discloses its system is applicable to big ticket purchases thus an intermediary subsystem as used in a car dealership would be obvious to be incorporated in Sammon because use of a dealership as an intermediary is a common business practice.

(Note: Applicants' Drawing Fig 5, item 126 shows an intermediary as a dealership as interpreted by the Examiner).

Sammon does not specifically disclose requests for quotes (RFQ's) for the product configuration, including attribute rankings. Sammon also does not disclose selecting a seller who has the customer-defined product configuration though SAMMON discloses ranking of several matching products.

However Luke disclose:

negotiations ( offers, acceptance, counteroffers or rejection : Fig 3 and associated text), matching offer and solicitation data (which can be under formats of RFQ's, col 5 l. 60-65, col 7 l. 25-40; col 6 l. 56-60).

generating/displaying a list of perfect or near-perfect matches (Fig 2A and associated text) in all dimensions and display of results to the user to help identify potential exchange partner(s)( Fig 2 and associated text ),

notification to supervising agent (intermediary), confirmation and binding contract formation of (Fig 4).

Luke further discloses fully automated evaluation of identified potential sellers/proposals, once a list is identified by matching , based on further buyers' selected parameters (Fig 3 and associated text, col 9 l. 49-col 10 line 14, especially col 10 l 1-4).

Art Unit: 3622

Thus one skilled in the arts would have known to supplement Sammon's on-line shopping by initial search/matching with Luke's automatically prepared RFQ for price presentation to the customer because pricing is paramount in complex products shopping situations.

Further, it would have been obvious to add Luke's automatic selection of vendors based on product characteristics to the Sammon's matching products to allow presentation of sellers who have the relevant products to the customer as taught by Luke.

As to the newly added limitation of the RFQ including the product configuration attribute rankings, since Sammon teaches the product is defined by attributes rankings as discussed above, and since Luke taught "solicitation data" in RFQ's to define a product desired, and further teaches further product specifications by the customer parameters (Fig 3 and associated text, col 9 l. 49-col 10 line 14, especially col 10 l 1-4), it would have been obvious to one skilled in the art at the time the invention was made to add the attribute rankings (as taught by Sammon) as part of the RFQ "solicitation data" taught by Luke to better define the product to allow proper and effective matching of products.

As to the newly added limitation of receiving in response to the RFQ a quote including a modification based on the product configuration attribute rankings, as noted above, by ranking the best matched products found, Sammon discloses that the "product attribute modification" was made based on the attribute rankings", and proposed to the buyer.

Thus, in the combined Sammon/Luke system, as Luke discloses quotes, it would have been obvious to one skilled in the art at the time the invention was made to incorporate into the quote the "product attribute modification.. made based on the attribute rankings", (as taught by Sammon) to apprise the customer both of the price and of the corresponding appropriate attribute modification .

As to the RFQ's being uniquely identified, Official Notice is taken that such practice is well-known for identification purposes and thus obvious to be added to SAMMON for that advantage. (Note: Luke's RFQ is identified by many component identifiers, see col. 3 lines 57-65, which could be interpreted as the RFQ unique identifiers).

As to determining if the customer-defined product configuration is available from a manufacturer, as stated above, Luke discloses near perfect matching of specified products in all dimensions (Fig 2A and associated text). In the context of cars, that would mean the customer-defined product configuration is available from its manufacturer.

As to determining whether a seller has the general product, as stated above, Luke discloses such (Fig 2 and associated text: potential exchange partner(s) are identified and presented; see also Fig 3 and associated text, col 9 l. 49-col 10 line 14, especially col 10 l 1-4).

As to a product being specified by "an automobile manufacturer indication and a model indication" Sammon discloses cars attributes including options (see e.g. Fig. 14: "performance" as an attribute and its subcategories) but does not specifically disclose car manufacturers and models. However specifying a product being a vehicle by manufacturer name and model is known.

For example, Axaopoulos discloses a system and method for storing and searching buy and sell information of a marketplace. At Figures 15-18 and associated text, it is disclosed that in order to specify a desired vehicle, users select a number of nodes indicating the possible car manufacturers nationalities and their names, such as Buick, Chevrolet if an American-made car is desired. Other car options can be specified too (see e.g. Figure 18 item 1890). In so defining the car, the users "let other help find that car" (col. 14 lines 52-53).

Further, Stiegler US 5774121 A (cited earlier), in analogous arts, discloses a user interface method and system for graphical decision making with categorization across multiple

Art Unit: 3622

criteria using weights, ranking of attributes. Stiegler discloses that criteria or options for specifying a new car to purchase are at least the car models ( col. 18 lines 18-25).

It would have been obvious to one skilled in the art at the time the invention was made to add manufacturers and models as disclosed above to the Sammon's car options to further define a car to be bought "to let other(s) help find that car" (Axaopoulos col. 14 lines 52-53).

As to claim 73, SAMMON discloses qualification of the customer (see at least Figs. 6 and associated text). Further Official Notice is taken that it is old and well-known to determine a maximum purchasing capacity for the user in substantial purchases such as cars or real estate to assure the transaction is feasible and thus it would have been obvious to one skilled in the art at the time the invention was made to add such feature to Sammon/Luke for the above advantage.

("Determining what you have a financial inventory", see [web.archive.org/web/19961020103955/http://membrane.com/synapse/prequal.html](http://web.archive.org/web/19961020103955/http://membrane.com/synapse/prequal.html) attached, dated back to October 20, 1996 by the Wayback Machine, is provided as support for the Official Notice.)

It shows pre-qualification or pre-approval of mortgage loans, before searching for the right home. It is obvious the house price is not known before the house is found. The purpose of prequalification or pre-approval is obviously not to waste one's time searching for a product (house) one cannot afford. It would have been obvious to one skilled in the art at the time the invention was made to use the same principle in the context of purchases of other big ticket items such as cars for the same time-saving purpose. )

As to claim 74, Sammon does not specifically disclose a range of 1-5. However, SAMMON discloses different ways to evaluate a product attribute, including assigning numerical values to each attribute as appropriate (see at least col. 2 lines 33-47,, Figs 9-14 and associated text). In particular, Sammon teaches an attribute measurement can be "an enumerated type for an attribute selected from a list or set" ( col. 2 lines 39-42). As discussed above,



Art Unit: 3622

Sammon's willingness to negotiate a modification of a particular attribute is indicated by choosing from a list of 5 discrete values ranging from "must have" (i.e. low level of willingness to negotiate) to "don't care" (i.e. high level of willingness to negotiate) (see e.g. Fig. 9). It would have been obvious to use a numerical range from 1-5 to represent the 5 discrete choices pertaining to the willingness to negotiate a certain attribute (as shown in Sammon's Figure 9), to effect, in a logical manner, Sammon's particular teaching that "an enumerated type" can be used when the attribute measurement is selected from a list or set (col. 2 lines 39-42).

As to claim 76, as noted above, it is interpreted that SAMMON discloses a "product attribute modification" when it discloses showing a matching product with an attribute that does not quite match.

It would have been obvious to one skilled in the art at the time the invention was made, if the system does not have the best matched product to present one for which to the user indicated a high level of willingness to negotiate in order to potentially close a sale. Thus, as Luke discloses quotes, it would further have been obvious to one skilled in the art at the time the invention was made to give a quote covering that situation with the appropriate attribute modification description to inform the consumer what the quote is about and to assist in her decision process.

As to claim 77, Sammon/Luke does not disclose a second intermediary which receives the RFQ from the first intermediary subsystem then retransmit the RFQ to networked seller subsystem. However, to duplicate parts for multiple effects (*See-St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8, 11; 549 F.2d 833 (7th Cir. 1977); *In re Harza*, 124 USPQ 378, 380; 274 F.2d 669 (CCPA 1960) as well as to make separable (*See Nerwin v. Erlichman*, 168 USPQ 177, 179 (BdPatApp&Int 1969); *In re Dulberg*, 129 USPQ 348, 349; 289 F.2d 522 (CCPA 1961)) have been held to be non-obvious modifications well within the level of ordinary skill in the art.

Here adding the secondary intermediary is equivalent to such non-obvious duplication of parts for multiple effects. It would have been obvious to add such secondary intermediary whenever needed or desired to achieve the particular business goals.

(It is noted the Specifications do not disclose why use of such 2<sup>nd</sup> intermediary is desirable or advantageous as the only mention of a 2<sup>nd</sup> intermediary is found at page 8 as follows: “Optionally, a first intermediary may also transmit the request to a second intermediary at step 85 to act on behalf of the first intermediary”. Thus it seems obvious a secondary intermediary can be added for any business reason.).

### ***Response to Arguments***

5. Applicant's arguments have been considered but are unpersuasive.

Applicants argue that Luke does not teach an RFQ having attribute rankings. The Examiner notes that the attributes describing the flexibility as to the product desired by a buyer is taught by Sammon (see discussion above). **The new limitations are fully addressed in bold in the discussion above.**

Applicants also essentially argue that Luke works “backwards” (i.e. sellers select buyers based on their criteria ) while the present invention is about buyers selecting sellers via an intermediary (Response p. 5 last paragraph). However, Luke discloses generating/displaying a list of perfect or near-perfect matches (Fig 2A and associated text) in all dimensions and display of results to the user to help identify potential exchange partner(s)( Fig 2, item 220 and associated text ) In other words, in Luke, either sellers or buyers can initiate the negotiation and exchange process (col. 5 lines 60-62). Thus Luke does not work backwards as argued.

Applicants also argue Luke teaches an RFQ generated by a buyer and not by an intermediary as claimed (Response p. 6, 2<sup>nd</sup> paragraph). It is noted the Specifications (at page 5 lines 27-30) do not distinguish between an intermediary and a buyer, in some cases:

Art Unit: 3622

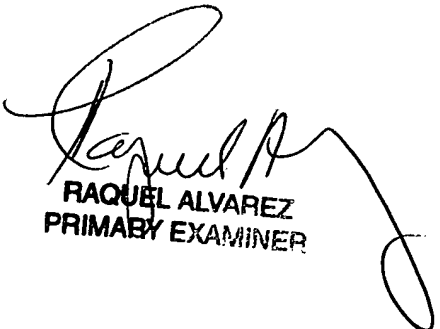
*“ An intermediary is a professional customer, such as a bank, credit union, auto broker or other automobile-buying professional, and in some cases the intermediary and the customer may be the same entity, for example when the intermediary is a corporate fleet auto customer buying automobiles on behalf of a corporation. ”*

Thus even if Luke only teaches an RFQ generated by a buyer and not by an intermediary, as argued, Luke's buyer still reads on the “intermediary” since this latter is broadly defined in the Specifications.

### ***Conclusion***

**6. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

  
**RAQUEL ALVAREZ**  
**PRIMARY EXAMINER**

Art Unit: 3622

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 571-272-6721. The Examiner works a part-time schedule and can normally be reached on Tuesday-Wednesday 9:00-6:00.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-3600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

October 24, 2006



KHL